

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1444 of 1998

with

CIVIL REVISION APPLICATION No 1445 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DAYABHAI RAMJIBHAI ZALAWADIYA

Versus

FATSAR GRAM PANCHAYAT

Appearance:

1. Civil Revision Application No. 1444 of 1998
MR SURESH M SHAH for Petitioners
MR AMAR D MITHANI for Respondent No. 1
2. Civil Revision ApplicationNo 1445 of 1998
MR SURESH M SHAH for Petitioners
MR AMAR D MITHANI for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 12/02/99

ORAL JUDGEMENT

Heard the learned Advocates for the parties.

The lower Appellate Court reversed the order of the trial court granting injunction against the petitioner in respect of land bearing survey No.124 admeasuring 49 acres 69 Guntas. It is contended by Mr S M Shah, learned Advocate that the petitioners are in possession of plot No.121 and 5 Acres situated in village Khilawad. Under the garb of injunction granted by the lower Appellate Court, possession of the petitioners is sought to be disturbed. It is further contended that survey No.124, area admeasuring 49 Acres 69 Guntas is situated in another village called Fatsar. It is also submitted that the petitioners are not claiming any title, interest or possession over plot No.124 referred to above. Thus, the only question which remains is the identity of the two lands - survey No.124 of Fatsar Gram Panchayat and survey No. 121 of village Khilawad. Considering the facts and circumstances of the case, ends of justice would meet if the District Inspector of Land Record, (for short, 'DILR') Junagadh is directed to measure both the aforesaid lands in presence of the parties or of their nominees. The report and map prepared by the DLR, Junagadh shall be placed on record of the trial court. The status as indicated in the report by the said District Inspector shall be maintained till the disposal of the suit. Order of the lower Appellate Court restraining the petitioner from interfering with the possession of the respondent in land bearing survey No.124 remains intact subject to the report of the District Inspector. Similarly, the respondent will also not interfere with the possession of the petitioner in survey No.121 as before the status indicated in the report of the DILR.

2. In view of this, order of the Courts below are substituted by the present order. Rule made absolute to the aforesaid extent.

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msh.